

## §210.5

## 31 CFR Ch. II (7–1–07 Edition)

### §210.5 Account requirements for Federal payments.

(a) Notwithstanding ACH Rules 2.1.2, 4.1.3, and Appendix Two, section 2.2 (listing general ledger and loan accounts as permissible transaction codes), an ACH credit entry representing a Federal payment other than a vendor payment shall be deposited into a deposit account at a financial institution. For all payments other than vendor payments, the account at the financial institution shall be in the name of the recipient, except as provided in paragraph (b) of this section.

(b)(1) Where an authorized payment agent has been selected, the Federal payment shall be deposited into an account titled in accordance with the regulations governing the authorized payment agent.

(2) Where a Federal payment is to be deposited into an investment account established through a securities broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, or an investment account established through an investment company registered under the Investment Company Act of 1940 or its transfer agent, such payment may be deposited into an account designated by such broker or dealer, investment company, or transfer agent.

(3) The Secretary of the Treasury may waive the requirements of paragraph (a) of this section in any case or class of cases.

[64 FR 17478, Apr. 9, 1999, as amended at 65 FR 18869, Apr. 7, 2000]

### §210.6 Agencies.

Notwithstanding ACH Rules 2.2.3, 2.4.5, 2.5.2, 4.2, and 8.7.2, agencies shall be subject to the obligations and liabilities set forth in this section in connection with Government entries.

(a) *Receiving entries.* An agency may receive ACH debit or credit entries only with the prior written authorization of the Service.

(b) *Liability to a recipient.* An agency will be liable to the recipient for any loss sustained by the recipient as a result of the agency's failure to originate a credit or debit entry in accordance

with this part. The agency's liability shall be limited to the amount of the entry(ies).

(c) *Liability to an originator.* An agency will be liable to an originator or an ODFI for any loss sustained by the originator or ODFI as a result of the agency's failure to credit an ACH entry to the agency's account in accordance with this part. The agency's liability shall be limited to the amount of the entry(ies).

(d) *Liability to an RDFI or ACH association.* Except as otherwise provided in this part, an agency will be liable to an RDFI for losses sustained in processing duplicate or erroneous credit and debit entries originated by the agency. An agency's liability shall be limited to the amount of the entry(ies), and shall be reduced by the amount of the loss resulting from the failure of the RDFI to exercise due diligence and follow standard commercial practices in processing the entry(ies). This section does not apply to credits received by an RDFI after the death or legal incapacity of a recipient of benefit payments or the death of a beneficiary as governed by Subpart B of this part. An agency shall not be liable to any ACH association.

(e) *Acquittance of the agency.* The final crediting of the amount of an entry to a recipient's account shall constitute full acquittance of the Federal Government.

(f) *Reversals.* An agency may reverse any duplicate or erroneous entry, and the Federal Government may reverse any duplicate or erroneous file. In initiating a reversal, an agency shall certify to the Service that the reversal complies with applicable law related to the recovery of the underlying payment. An agency that reverses an entry shall indemnify the RDFI as provided in the applicable ACH Rules, but the agency's liability shall be limited to the amount of the entry. If the Federal Government reverses a file, the Federal Government shall indemnify the RDFI as provided in the applicable ACH Rules, but the extent of such liability shall be limited to the amount of the

## Fiscal Service, Treasury

## §210.8

entries comprising the duplicate or erroneous file. Reversals under this section shall comply with the time limitations set forth in the applicable ACH Rules.

(g) *Point-of-purchase debit entries.* An agency may convert to an ACH debit entry a check drawn on a consumer or business account and presented at a point-of-purchase. Agencies shall use the Point-of-Purchase (POP) Standard Entry Class (SEC) code for entries to consumer accounts and the Cash Concentration or Disbursement (CCD) SEC code for entries to business accounts. The requirements of ACH Rules 2.1.2 and 3.5 shall be met for such an entry if the Receiver presents the check at a location where the agency has posted a conspicuous notice at the point-of-purchase containing the disclosure set forth at appendix A to this part and makes available to the Receiver, in a form that the Receiver can retain, the disclosure set forth at appendix B to this part. For purposes of ACH Rules 3.12 and 4.1.1, authorization shall consist of a copy of the notice and a copy of the Receiver's source document.

(h) *Accounts receivable check conversion*—(1) *Conversion of consumer checks.*—An agency may originate an Accounts Receivable (ARC) entry using a check drawn on a consumer account that is received via the mail or at a dropbox, or that is delivered in person in circumstances in which the agency cannot contemporaneously image and return the check. The notice and authorization requirements of ACH Rules 2.1.4 and 3.7.1 shall be met for an ARC entry only if an agency has provided the Receiver with the disclosure set forth at appendix C to this part.

(2) *Conversion of business checks.* An agency may originate an ACH debit using a business check that is received via the mail or at a dropbox, or that is delivered in person in circumstances in which the agency cannot contemporaneously image and return the check. The agency shall use the CCD SEC code for such entries, which shall be deemed to meet the requirements of ACH Rule 2.1.2 if the agency has provided the disclosure set forth at appendix C to this part. For purposes of ACH Rules 3.12 and 4.1.1, authorization shall

(i) *Returned item service fee.* An agency may originate an ACH debit entry to collect a one-time service fee in connection with an ACH debit entry originated pursuant to paragraph (g) or (h) of this section that is returned due to insufficient funds. An entry originated pursuant to this paragraph shall meet the requirements of ACH Rules 2.1.2 and 3.5 if the agency has complied with the disclosure requirements of paragraph (g) or (h), as appropriate. For purposes of ACH Rule 3.12 and 4.1.1, authorization shall consist of a copy of the notice provided under paragraph (g) or (h), as applicable, and a copy of the Receiver's source document.

[64 FR 17487, Apr. 9, 1999, as amended at 67 FR 17903, Apr. 11, 2002; 69 FR 13189, Mar. 19, 2004; 70 FR 67367, Nov. 7, 2005]

## §210.7 Federal Reserve Banks.

(a) *Fiscal Agents.* Each Federal Reserve Bank serves as Fiscal Agent of the Treasury in carrying out its duties as the Federal Government's ACH Operator under this part. As Fiscal Agent, each Federal Reserve Bank shall be responsible only to the Treasury and not to any other party for any loss resulting from the Federal Reserve Bank's action, notwithstanding Section 11.5 and Article 8 of the ACH Rules. Each Federal Reserve Bank may issue operating circulars not inconsistent with this part which shall be binding on financial institutions.

(b) *Routing numbers.* All routing numbers issued by a Federal Reserve Bank to an agency require the prior approval of the Service.

## §210.8 Financial institutions.

(a) *Status as a Treasury depository.* The origination or receipt of an entry subject to this part does not render a financial institution a Treasury depository. A financial institution shall not advertise itself as a Treasury depository on such basis.

(b) *Liability.* Notwithstanding ACH Rules 2.2.3, 2.4.5, 2.5.2, 4.2, and 8.7.2, if the Federal Government sustains a loss as a result of a financial institution's failure to handle an entry in accordance with this part, the financial institution shall be liable to the Federal Government for the loss, up to the